

Message Text

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ACTION IO-11

INFO OCT-01 ARA-06 ISO-00 IOE-00 SSO-00 NSCE-00 INRE-00

USIE-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 DHA-02 AID-05

SCA-01 AF-06 EA-07 EUR-12 NEA-10 OIC-02 /103 W

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O R 181400Z FEB 76

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INFO USUN NEW YORK 2665

AMEMBASSY SANTIAGO

LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 1132

EO 11652: N/A

TAGS: SHUM, UN

SUBJECT: HUMAN RIGHTS COMMISSION (HRC) - CHILE

REF: A) SANTIAGO 1229, B) GENEVA 1079, C) GENEVA 1092

1. DEBATE ON CHILEAN HUMAN RIGHTS ITEM HAS FOLLOWED PREDICTABLE COURSE WITH EXPECTATION THAT IT WILL END AT P.M. MEETING, FEB 18. HRC MEMBERS SPEAKING IN ADDITION THOSE LISTED REF (C) HAVE BEEN UK, BYELORUSSIA, EGYPT, CYPRUS, URUGUAY, CANADA, USSR, BELGIUM AND YUGOSLAVIA. CHILEAN OBSERVER DEL LISTED AS FINAL SPEAKER. ONLY UNUSUAL NOTE WAS SOUNDED BY EGYPTIAN REP KHALIFA WHO EXPLAINED HIS PROBABLE ABSTENTION ON DRAFT RES BY TAKING LINE THAT WHOLE TRUTH ON SITUATION IN CHILE NOT YET DIVULGED. HE URGED CHILE TO OPEN ITS DOORS TO WORKING GROUP SO THAT A FACTUAL, MORE HELPFUL REPORT COULD BE DRAWN UP.

2. TEXTS OF TWO DRAFT RESOLUTIONS (SLIGHT IMPROVEMENTS OVER THOSE SENT REF (B) WHICH HAVE BEEN SUBMITTED TO SECRETARIAT FOR CIRCULATION APPEAR AT END OF THIS
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MESSAGE. VOTE IS LIKELY TO TAKE PLACE FEB 19.

SINCE TEXT OF PRINCIPAL RESOLUTION SO CLOSELY PARALLELS
GA RES 3448 FOR WHICH US VOTED AND TAKING
ACCOUNT OPINION EXPRESSED BY EMBASSY SANTIAGO, REF
(A), US DEL INTENDS TO VOTE FOR BOTH RESOLUTIONS,
UNLESS CONTRARY INSTRUCTIONS RECEIVED PRIOR TO VOTE.
ACCORDING PRESENT INFO ALL WEO'S ON HRC INTEND VOTE
FOR RESOLUTIONS. US DEL WILL MAKE EXPLANATION
OF VOTE PRIOR TO VOTE.

3. TEXT OF DRAFT RESOLUTIONS FOLLOWS: BEGIN TEXT:

COMMISSION ON HUMAN RIGHTS

THE COMMISSION DECIDES TO AUTHORIZE ITS CHAIRMAN TO
ADDRESS THE FOLLOWING TELEGRAM TO THE GOVERNMENT OF CHILE:

ON BEHALF OF THE MEMBERS OF THE UNITED NATIONS COMMISSION
ON HUMAN RIGHTS AND AS CHAIRMAN OF THE COMMISSION AT ITS THIRTY-SECON
D
SESSION, I HAVE BEEN AUTHORIZED TO SEND THE FOLLOWING TELEGRAM TO
YOUR GOVERNMENT,

THE COMMISSION ON HUMAN RIGHTS RECALLS THE TELEGRAM
THAT HAD BEEN SENT ON ITS BEHALF BY ITS CHAIRMAN ON 1 MARCH 1974 TO
THE GOVERNMENT OF CHILE IN WHICH, INTER ALIA, THE RELEASE OF SOME
CHILEAN NOTABLE PERSONALITIES WAS REQUESTED,

NOTING THAT WHILE OTHERS MENTIONED IN THAT TELEGRAM
ARE NO LONGER IN DETENTION, LUIS CORVALAN AND PEDRO FELIPE
RAMIREZ CONTINUE TO BE HELD IN DETENTION,

EXPRESSES ITS PROFOUND CONCERN ON BEING INFORMED
THAT JOSE CADEMARTORI, LUIS CORVALAN, FERNANDO FLORES, ALFREDO
JOIGNANT, LEOPOLDO LUNA, JORGE MONTES, TITO PALESTRO, ANIBAL PALMA,
PEDRO FELIPE RAMIREZ, ERIC SCHNAKE, ANDRES SEPULVEDA, DANIEL
VERGARA, AND SERGIO VUSKOVIC WHO HAVE BEEN IN DETENTION FOR OVER
TWO YEARS AND ARE LIKELY TO BE BROUGHT TO TRIAL BEFORE A
MILITARY TRIBUNAL,

URGES THE GOVERNMENT OF CHILE TO DESIST FROM HOLDING THE
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CONTEMPLATED MILITARY TRIALS AND TO RELEASE THE ABOVE MENTIONED
PERSONS WITHOUT FURTHER DELAY.

CONSCIOUS OF ITS RESPONSIBILITY TO PROMOTE AND ENCOURAGE RESPECT
FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS FOR ALL,

RECALLING THAT, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS SOLEMNLY
DECLARES THAT EVERYONE HAS THE RIGHT TO LIFE, LIBERTY AND

SECURITY OF PERSON AND THE RIGHT NOT TO BE SUBJECTED TO
ARBITRARY ARREST, DETENTION OR EXILE, OR TO TORTURE OR CRUEL,
INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT,

RECALLING GENERAL ASSEMBLY RESOLUTION 3542 (XXX) BY WHICH THE
DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING
SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT WHICH WAS ADOPTED UNANIMOUSLY,

RECALLING FURTHER THE CONCERN OF THE GENERAL ASSEMBLY IN ITS
RESOLUTION 3219 (XXXIX) OF 6 NOVEMBER 1974 IN WHICH IT HAS EXPRESSED
ITS DEEPEST CONCERN ABOUT REPORTED, CONSTANT AND FLAGRANT VIOLATIONS
OF BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN CHILE AND URGED
THE AUTHORITIES IN THAT COUNTRY TO TAKE ALL NECESSARY STEPS TO RESTOR
E
AND SAFEGUARD THEM,

RECALLING IN THIS CONNEXION THE RESOLUTION OF THE COMMISSION NO.8
(XXXI) OF 27 FEB 1975 IN WHICH THE COMMISSION HAS EXPRESSED ITS
SERIOUS CONCERN ABOUT THE CONTINUING REPORTS OF VIOLATIONS OF HUMAN
RIGHTS IN CHILE, AND IN WHICH IT DECIDED TO ESTABLISH AN AD HOC
WORKING GROUP TO ENQUIRE INTO THE PRESENT SITUATION OF
HUMAN RIGHTS IN THE SAID COUNTRY ON THE BASIS
OF ALL AVAILABLE EVIDENCE INCLUDING A VISIT TO CHILE, AND APPEALED
TO THE AUTHORITIES OF CHILE TO EXTEND ITS FULL CO-OPERATION TO THE
GROUP,

NOTING GENERAL ASSEMBLY RESOLUTION 3448 (XXX) ENTITLED PROTECTION
OF HUMAN RIGHTS IN CHILE, BY WHICH, INTER ALIA, IT DEPLORED THE
REFUSAL OF THE CHILEAN AUTHORITIES TO ALLOW THE AD HOC WORKING
GROUP OF THE COMMISSION ON HUMAN RIGHTS TO VISIT THE COUNTRY,
NOTWITHSTANDING PREVIOUS SOLEMN ASSURANCES GIVEN BY THEM IN
THIS REGARD AND URGES THEM TO HONOUR THESE ASSURANCES,
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NOTING, INTER ALIA, ALSO RECENT SUPREME DECREE 187 OF 20 JAN 1976,
RELATED TO THE NEED FOR THE PROTECTION OF PERSONS DETAINED AS
A RESULT OF THE STATE OF SEIGE, THE EFFECTS OF WHICH HAVE YET TO
BE ASCERTAINED,

HAVING CONSIDERED THE REPORT OF THE AD HOC WORKING GROUP
(DOCUMENTS E/CN.4/1188 AND A/10285) ESTABLISHED UNDER COMMISSION
RESOLUTION 8 (XXXI),

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ACTION IO-11

INFO OCT-01 ARA-06 ISO-00 DHA-02 AID-05 SCA-01 IOE-00

SSO-00 NSCE-00 INRE-00 USIE-00 CIAE-00 DODE-00 PM-04

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SS-15 AF-06 EA-07 EUR-12 NEA-10 OIC-02 /103 W

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AMEMBASSY SANTIAGO

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1. EXPRESSES ITS APPRECIATION TO THE CHAIRMAN AND MEMBERS OF THE AD HOC WORKING GROUP FOR THE REPORT WHICH HAS BEEN PREPARED IN A PAINSTAKING AND OBJECTIVE MANNER, NOTWITHSTANDING THE REFUSAL OF THE CHILEAN AUTHORITIES TO PERMIT THE GROUP TO VISIT THE COUNTRY,

2. EXPRESSES ITS PROFOUND DISTRESS AT THE CONSTANT, FLAGRANT VIOLATIONS OF HUMAN RIGHTS, INCLUDING THE INSTITUTIONALIZED PRACTICE OF TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT, ARBITRARY ARREST, DETENTION AND EXILE, TO WHICH THE PRESENT REPORT BRINGS FURTHER EVIDENCE, WHICH HAVE TAKEN PLACE AND, ACCORDING TO EXISTING EVIDENCE, CONTINUE TO TAKE PLACE IN CHILE, SOON AFTER THE ADOPTION OF GENERAL ASSEMBLY RESOLUTION 3448 (XXX),

3. REAFFIRMS ITS CONDEMNATION OF ALL FORMS OF TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,

4. APPEALS TO THE CHILEAN AUTHORITIES TO TAKE, WITHOUT DELAY, ALL NECESSARY MEASURES TO RESTORE AND SAFEGUARD BASIC HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, AND FULLY TO RESPECT THE PROVISIONS OF THE INTERNATIONAL INSTRUMENTS TO WHICH CHILE IS A PARTY AND TO

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THIS END TO ENSURE THAT:

A THE STATE OF SIEGE OR EMERGENCY IS NOT USED FOR THE PURPOSE OF VIOLATING HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONTRARY TO ART 4 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

B ADEQUATE MEASURES ARE TAKEN TO END THE INSTITUTIONALIZED PRACTICE OF TORTURE AND OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN FULL RESPECT OF ART 7 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

C THE RIGHTS OF ALL PERSONS TO LIBERTY AND SECURITY OF PERSON, IN PARTICULAR THOSE WHO HAVE BEEN DETAINED WITHOUT CHARGE OR IN PRISON SOLELY FOR POLITICAL REASONS, AS PROVIDED FOR IN ART 9 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS ARE FULLY GUARANTEED AND STEPS ARE TAKEN TO CLARIFY THE STATUS OF THOSE INDIVIDUALS WHO ARE NOT ACCOUNTED FOR;

D NO ONE SHALL BE HELD GUILTY OF ANY CRIMINAL OFFENCE ON ACCOUNT OF ANY ACT OR OMISSION WHICH DID NOT CONSTITUTE A CRIMINAL OFFENCE UNDER NATIONAL OR INTERNATIONAL LAW AT THE TIME WHEN IT WAS COMMITTED, CONTRARY TO ART 15 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

E NO ONE, IN ACCORDANCE WITH ART 15 (2) OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS SHALL BE ARBITRARILY DEPRIVED OF CHILEAN NATIONALITY;

F THE RIGHT TO FREEDOM OF ASSOCIATION, INCLUDING THE RIGHT TO FORM AND JOIN TRADE UNIONS SHALL BE RESPECTED IN ACCORDANCE WITH ART 22 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS;

G THE RIGHT TO INTELLECTUAL FREEDOMS AS PROVIDED FOR IN ART 19 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS SHALL BE GUARANTEED;

H THE REQUEST OF THE COMMISSION COMMUNICATED BY ITS CHAIRMAN IN 1974 TO THE GOVERNMENT OF CHILE BE IMPLEMENTED THAT PERSONS STILL IN DETENTION, BE RELEASED AND NO STEPS BE TAKEN AND NO TRIALS BE HELD AGAINST THEM ON A RETROACTIVE BASIS;

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5. CONCLUDES THAT THE PRACTICE OF TORTURE HAS BEEN SYSTEMATICALLY EMPLOYED BY SOME STATE AGENCIES, PARTICULARLY BY THE DINA, AND THE COMMISSION CALLS UPON THE CHILEAN AUTHORITIES TO ADOPT EFFECTIVE MEASURES TO INVESTIGATE AND PUT AN END TO SUCH ACTIVITIES OF THESE AGENCIES AND OF INDIVIDUALS IN RELATION TO ACTS OF TORTURE

6. EXTENDS THE MANDATE OF THE PRESENT FOLLOWING AD HOC WORKING

GROUP TO WORK AS EXPERTS IN THEIR PERSONAL CAPACITY:-MR GHULAM ALI ALLANA (PAKISTAN) (CHAIRMAN-RAPPORTEUR); MR LEOPOLDO BENITES (ECUADOR); MR FELIX ERMACORA (AUSTRIA); MR ABDOULAYE DIEYE (SENEGAL; MRS M J T KAMARA (SIERRA LEONE), AND REQUESTS IT TO REPORT TO THE GENERAL ASSEMBLY AT ITS THIRTY-FIRST SESSION AND TO THE COMMISSION ON HUMAN RIGHTS AT ITS THIRTY-THIRD SESSION ON THE SITUATION OF HUMAN RIGHTS IN CHILE, AND, IN PARTICULAR ANY DEVELOPMENTS, LEGISLATIVE OR OTHERWISE, WHICH MAY OCCUR TO RE-ESTABLISH RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN IMPLEMENTATION OF GENERAL ASSEMBLY RES 3448 (XXX) AND ALL OTHER RELEVANT RESOLUTIONS AND DECISIONS OF UNITED NATIONS BODIES, THEREAFTER THE GROUP SHALL CEASE TO EXIST.

REQUESTS THE SECRETARY-GENERAL TO RENDER TO THE AD HOC WORKING GROUP ALL THE ASSISTANCE WHICH IT MIGHT REQUIRE IN ITS WORK,

RECOMMENDS TO THE ECONOMIC AND SOCIAL COUNCIL TO MAKE ARRANGEMENTS FOR THE PROVISION OF ADEQUATE FINANCIAL RESOURCES AND STAFF FOR THE IMPLEMENTATION OF THE PRESENT RESOLUTION,

DECIDES TO CONSIDER AT ITS THIRTY-THIRD SESSION AS A MATTER OF HIGH PRIORITY THE QUESTION OF THE VIOLATIONS OF HUMAN RIGHTS IN CHILE. DALE

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